

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PARTICIPATION IN A DRIVER REHABILITATION AND IMPROVEMENT PROGRAM FOR CERTAIN TRAFFIC VIOLATIONS; AND AMENDING SECTIONS 61-2-302 AND 61-8-711, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-2-302, MCA, is amended to read:

"61-2-302. Establishment of driver rehabilitation and improvement program -- participation by offending drivers. (1) The department may establish by administrative rules a driver rehabilitation and improvement program or programs. The programs may consist of classroom instruction in rules of the road, driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the requirements for obtaining a restricted probationary driver's license.

(2) Except when otherwise provided or restricted by statute, a person whose driver's license is suspended or revoked by the department may participate in any driver rehabilitation and improvement program established under this section if the person's license is:

(a) suspended as a result of a violation of the traffic laws of this state, unless the suspension was imposed under the authority provided in Title 61, chapter 8, part 8; or

(b) revoked and the person has:

(i) completed at least 3 months of a 1-year revocation; or

(ii) completed 1 year of a 3-year revocation; and

(iii) met the requirements for reobtaining a Montana driver's license.

(3) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana, the enforcement of any suspension or revocation order that constitutes the basis for any person's participation in the driver rehabilitation and improvement program provided for in this section may be stayed if that person complies with the requirements established for the driver rehabilitation and improvement program and meets the eligibility requirements of subsection (2).

(4) If a person's driver's license has been surrendered before the person's selection for participation in the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's agreement to participate in the program.

(5) The stay of enforcement of any suspension or revocation action must be terminated and the suspension or revocation action must be reinstated if a person declines to participate in the driver rehabilitation and improvement program or fails to meet the attendance or other requirements established for participation in the program.

(6) This part does not create a right to be included in any program established under this part.

(7) The department may establish a schedule of fees that may be charged to those persons participating in the driver improvement and rehabilitation program. The fees must be used to help defray costs of maintaining the program.

(8) A person may be referred to this program by a driver improvement analyst, city judge, justice of the peace, youth court judge, judge of a district court of the state, or hearing examiner of the department.

(9) (a) Except as provided in subsection (9)(b), the department may issue a restricted probationary license to any person who enrolls and participates in the driver rehabilitation and improvement program. Upon issuance of a probationary license under this section, the licensee is subject to the restrictions set forth on the license.

(b) The department may not issue a restricted probationary license that would permit an individual to drive a commercial motor vehicle during a period in which:

(i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or

(ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.

(10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to the person under this section.

(11) A driver rehabilitation and improvement program must allow for participation in the program of a person who is subject to 61-8-711(6)."

Section 2. Section 61-8-711, MCA, is amended to read:

"61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for a person to violate any of the provisions of this chapter unless the violation is declared to be a felony.

(2) Each person convicted of a misdemeanor for a violation of any of the provisions of this chapter for

1 which another penalty is not provided shall for a first conviction be punished by a fine of not less than \$10 or more
2 than \$100. For a second conviction within 1 year after the first conviction, the person shall be punished by a fine
3 of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first
4 conviction, the person shall be punished by a fine of not less than \$50 or more than \$500.

5 (3) Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil
6 contempt of the court. On failure of payment of a fine, the court may:

7 (a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the
8 provisions of Title 25, chapter 13; or

9 (b) if the court finds that the person is unable to pay, order the person to perform community service.

10 (4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court
11 makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail
12 in the county in which the offense was committed, and the imprisonment shall be the number of days that the fine
13 is divisible by the dollar amount of the incarceration credit contained in 46-18-403.

14 (5) Upon conviction, the court costs or any part of the court costs may be assessed against the
15 defendant in the discretion of the court.

16 (6) In addition to the penalties provided in this section, a person convicted of violating 61-8-207,
17 61-8-209, or 61-8-344 shall participate in a driver rehabilitation and improvement program provided for in
18 61-2-302 if the conviction under this section is based on evidence produced by an automated camera installed
19 by a local authority to detect violations of 61-8-207, 61-8-209, or 61-8-344."

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